



General Assembly

February Session, 2010

Amendment

LCO No. 5116

SB0030205116SD0

Offered by:

SEN. COLEMAN, 2nd Dist.
SEN. CRISCO, 17th Dist.
REP. GENTILE, 104th Dist.
REP. CONROY, 105th Dist.
REP. GROGINS, 129th Dist.
REP. AYALA, 128th Dist.

REP. CARUSO, 126th Dist.
REP. ROLDAN, 4th Dist.
REP. HENNESSY, 127th Dist.
REP. SANTIAGO, 130th Dist.
SEN. WILLIAMS, 29th Dist.

To: Subst. Senate Bill No. 302

File No. 297

Cal. No. 218

**"AN ACT CONCERNING STATE FUNDING OF AFFORDABLE
HOUSING LOCATED IN A FIVE-HUNDRED-YEAR FLOOD PLAIN."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 25-68d of the 2010 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2010*):

6 (a) No state agency shall undertake an activity or a critical activity
7 within or affecting the floodplain without first obtaining an approval
8 or approval with conditions from the commissioner of a certification
9 submitted in accordance with subsection (b) of this section or
10 exemption by the commissioner from such approval or approval with
11 conditions in accordance with subsection (d) of this section.

12 (b) Any state agency proposing an activity or critical activity within
13 or affecting the floodplain shall submit to the commissioner
14 information certifying that:

15 (1) The proposal will not obstruct flood flows or result in an adverse
16 increase in flood elevations, significantly affect the storage or flood
17 control value of the floodplains, cause an adverse increase in flood
18 velocities, or an adverse flooding impact upon upstream, downstream
19 or abutting properties, or pose a hazard to human life, health or
20 property in the event of a base flood or base flood for a critical activity;

21 (2) The proposal complies with the provisions of the National Flood
22 Insurance Program, [(44 CFR 59 et seq.)] 44 CFR 59 et seq., and any
23 floodplain zoning requirements adopted by a municipality in the area
24 of the proposal and the requirements for stream channel encroachment
25 lines adopted pursuant to the provisions of section 22a-342;

26 (3) The agency has acquired, through public or private purchase or
27 conveyance, easements and property in floodplains when the base
28 flood or base flood for a critical activity is elevated above the
29 increment authorized by the National Flood Insurance Program or the
30 flood storage loss would cause adverse increases in such base flood
31 flows;

32 (4) The proposal promotes long-term nonintensive floodplain uses
33 and has utilities located to discourage floodplain development;

34 (5) The agency has considered and will use to the extent feasible
35 flood-proofing techniques to protect new and existing structures and
36 utility lines, will construct dikes, dams, channel alterations, seawalls,
37 breakwaters or other structures only where there are no practical
38 alternatives and will implement stormwater management practices in
39 accordance with regulations adopted pursuant to section 25-68h; and

40 (6) The agency has flood forecasting and warning capabilities
41 consistent with the system maintained by the National Weather
42 Service and has a flood preparedness plan.

43 (c) The commissioner shall make a decision either approving,
44 approving with conditions or rejecting a certification not later than
45 ninety days after receipt of such certification, except that in the case of
46 an exemption any decision shall be made ninety days after the close of
47 the hearing. If a certification is rejected, the agency shall be entitled to a
48 hearing in accordance with the provisions of sections 4-176e, 4-177, 4-
49 177c and 4-180.

50 (d) Any state agency proposing an activity or critical activity within
51 or affecting the floodplain may apply to the commissioner for
52 exemption from the provisions of subsection (b) of this section. Such
53 application shall include a statement of the reasons why such agency is
54 unable to comply with said subsection and any other information the
55 commissioner deems necessary. The commissioner, at least thirty days
56 before approving, approving with conditions or denying any such
57 application, shall publish once in a newspaper having a substantial
58 circulation in the affected area notice of: (1) The name of the applicant;
59 (2) the location and nature of the requested exemption; (3) the tentative
60 decision on the application; and (4) additional information the
61 commissioner deems necessary to support the decision to approve,
62 approve with conditions or deny the application. There shall be a
63 comment period following the public notice during which period
64 interested persons and municipalities may submit written comments.
65 After the comment period, the commissioner shall make a final
66 determination to either approve the application, approve the
67 application with conditions or deny the application. The commissioner
68 may hold a public hearing prior to approving, approving with
69 conditions or denying any application if in the discretion of the
70 commissioner the public interest will be best served thereby, and the
71 commissioner shall hold a public hearing upon receipt of a petition
72 signed by at least twenty-five persons. Notice of such hearing shall be
73 published at least thirty days before the hearing in a newspaper
74 having a substantial circulation in the area affected. The commissioner
75 may approve or approve with conditions such exemption if the
76 commissioner determines that (A) the agency has shown that the

77 activity or critical activity is in the public interest, will not injure
78 persons or damage property in the area of such activity or critical
79 activity, complies with the provisions of the National Flood Insurance
80 Program, and, in the case of a loan or grant, the recipient of the loan or
81 grant has been informed that increased flood insurance premiums may
82 result from the activity or critical activity. An activity shall be
83 considered to be in the public interest if it is a development subject to
84 environmental remediation regulations adopted pursuant to section
85 22a-133k and is in or adjacent to an area identified as a regional center,
86 neighborhood conservation area, growth area or rural community
87 center in the State Plan of Conservation and Development pursuant to
88 chapter 297, or (B) in the case of a flood control project, such project
89 meets the criteria of subparagraph (A) of this subdivision and is more
90 cost-effective to the state and municipalities than a project constructed
91 to or above the base flood or base flood for a critical activity. Following
92 approval for exemption for a flood control project, the commissioner
93 shall provide notice of the hazards of a flood greater than the capacity
94 of the project design to each member of the legislature whose district
95 will be affected by the project and to the following agencies and
96 officials in the area to be protected by the project: The planning and
97 zoning commission, the inland wetlands agency, the director of civil
98 defense, the conservation commission, the fire department, the police
99 department, the chief elected official and each member of the
100 legislative body, and the regional planning agency. Notice shall be
101 given to the general public by publication in a newspaper of general
102 circulation in each municipality in the area in which the project is to be
103 located.

104 (e) The use of a mill that is located on a brownfield, as defined in
105 section 32-9kk, shall be exempt from the certification requirements of
106 subdivision (4) of subsection (b) of this section, provided the agency
107 demonstrates: (1) The activity is subject to the environmental
108 remediation requirements of the regulations adopted pursuant to
109 section 22a-133k, (2) the activity is limited to the areas of the property
110 where historical mill uses occurred, (3) any critical activity is above the

111 [five hundred year] five-hundred-year flood elevation, and (4) the
112 activity complies with the provisions of the National Flood Insurance
113 Program.

114 (f) The failure of any agency to comply with the provisions of this
115 section or any regulations adopted pursuant to section 25-68c shall be
116 grounds for revocation of the approval of the certification.

117 (g) The provisions of this section shall not apply to any proposal by
118 the Department of Transportation or the Department of Economic and
119 Community Development for a project within a drainage basin of less
120 than one square mile.

121 (h) The provisions of subsections (a) to (d), inclusive, and (f) and (g)
122 of this section shall not apply to the following critical activities above
123 the one-hundred-year flood elevation that involve state funded
124 housing reconstruction, rehabilitation or renovation, provided the state
125 agency that provides funding for such activity certifies that it complies
126 with the provisions of the National Flood Insurance Program and the
127 requirements of this subsection: (1) Projects involving the renovation
128 or rehabilitation of existing housing on the Department of Economic
129 and Community Development's most recent affordable housing
130 appeals list; (2) construction of minor structures to an existing building
131 for the purpose of providing handicapped accessibility pursuant to the
132 State Building Code; (3) construction of open decks attached to
133 residential structures, properly anchored in accordance with the State
134 Building Code; (4) the demolition and reconstruction of existing
135 housing for persons and families of low and moderate income,
136 provided there is no increase in the number of dwelling units and (A)
137 such reconstruction is limited to the footprint of the existing
138 foundation of the building or buildings used for such purpose, or
139 which could be used for such purpose subsequent to reconstruction, or
140 (B) such reconstruction is on a parcel of land where the elevation of
141 such land is above the one-hundred-year flood elevation, provided
142 there is no placement of fill within an adopted Federal Emergency
143 Management Agency flood zone."

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2010</i>	25-68d
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